

IN THE DRAWINGS

The attached 9 sheets of drawings include changes to Figures 2, 4-8, 11-12 and 15.

These sheets, which include Figures 2, 4-8, 11-12 and 15, replace the original sheets including Figures 2, 4-8, 11-12 and 15. The text in the drawings was changed to correct the same informalities as identified by the Office Action in the specification, specifically the word “contents” was replaced with “content” and the word “tittles” was replaced with “titles.” No new matter is added.

Attachment: Replacement Sheets

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

A substitute specification is enclosed to address informalities objected to by the Office Action. In light of their formal nature, the changes to the specification do not raise a question of new matter.

Figures 2, 4-8, 11-12 and 15 are changed and enclosed. The text in the drawings is changed to correct the same informalities as identified by the Office Action in the specification, and no new matter is added.

Claims 2-11 are pending in the application. Claim 1 is canceled without prejudice or disclaimer; Claims 2-8 are amended; Claims 9-11 are added by the present amendment, and recite substantially similar subject matter as Claims 3-5, but are drafted to avoid interpretation under 35 U.S.C. §112, sixth paragraph. Support for amended Claims 2-8 and added Claims 9-11 can be found in the original specification, claims and the drawings. The claims are further amended to correct minor informalities and cosmetic matters of form. No new matter is added.

In the outstanding Office Action, claims 1-8 were rejected under 35 U.S.C. 102(b) as being anticipated by Agresta et al (US PGPub 20020091848 A1, hereafter Agresta). Furthermore the Office Action advised that should Claim 1 be found allowable, Claims 2,3,6-8 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof.

In response to the rejection of Claims 2-8 under 35 U.S.C. 102(b), Applicants respectfully request reconsideration of these rejections and traverse the rejection, as discussed next.

Applicants respectfully submit that amended independent Claims 2, 3, 6-8 and added independent Claim 9 state novel features clearly not taught or rendered obvious by the applied reference.

Briefly summarizing, Applicants' invention, as recited in Claim 2, relates to a content delivery method for a content delivery system for delivering content from a content delivery apparatus to a content processing apparatus over a network. The method includes presenting a list of available content on the content processing apparatus. At least some content is to be delivered by streaming, and at least some by downloading. The content processing apparatus accepts input specifying the set of content to be acquired, and **automatically** acquires this content via streaming or downloading, "**without receiving an input selecting streaming or downloaded file as method of content delivery.**" Instead, the delivery method is determined by delivery information stored on the content delivery apparatus and provided to the content processing apparatus over a network.

Independent Claims 3 and 6-9, while directed to alternate embodiments, recite a similar feature of automatically acquiring content "without receiving an input selecting streaming or downloaded file as method of content delivery" according to delivery information provided by the content delivery apparatus.

Turning to the applied reference, Agresta describes a content delivery system for delivering content from a content delivery apparatus to a content processing apparatus by way of a network. Agresta's "invention is tailored for storing, selecting, accessing and playing musical media" (Agresta, paragraph 19, ll. 25-26). In contrast to the Applicants' invention, "the user [has] the **option** (emphasis added) of 'streaming' [content] to the terminal [...] or downloading the selection onto the memory of the terminal" (Agresta, paragraph 25, ll. 4-7). After the user selects the desired content to acquire, "[the] user then will have two **options** (emphasis added). One is to stream the [content]. The second option is

[...] to download the full [content].” (Agresta, paragraph 55, ll. 7-10). Agresta clearly states that the user must select one of the content delivery options: whether content is to be streamed or downloaded, and nowhere describes automatically acquiring content, “**without receiving an input selecting streaming or downloaded file as method of content delivery.**”

Therefore, Agresta fails to teach or suggest the “[automatic] acquiring by the content processing apparatus, without receiving an input selecting streaming or downloaded file as method of content delivery” a set of content.

Accordingly, for at least the reasons discussed above, Applicants respectfully request that the rejection of Claims 2-8 under 35 U.S.C. 102(b) be withdrawn.

The outstanding Office Action advised that Claims 2, 3, and 6-8 will be objected to under 37 CFR 1.75 as being substantial duplicates of Claim 1. Claim 1 has been canceled. The remaining claims fall into different statutory classes of invention, and those claims within the same statutory class of invention are distinct from each other.

Claims 2 and 6 are both method claims. Claim 2 relates to a method of content delivery, while Claim 6 relates to a method of content processing. Claim 3 is an apparatus claim. Claims 7 and 8 are program claims. Claim 7 relates to a program recorded on a recording medium, while Claim 8 relates to a program installed directly in a content processing apparatus and adapted to cause a computer to execute a series of steps.

Therefore, for at least the reasons noted above, these claims are different and Applicants respectfully request that the objection under 37 CFR 1.75 be withdrawn.

Application No. 10/553,794
Reply to Office Action of September 20, 2007

Consequently, in view of the present amendment, Applicants respectfully submit that the present application is in condition for allowance, and an early action favorable to that effect is earnestly solicited. Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact Applicants' undersigned representative at the below listed telephone number.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Andrew T. Harry
Registration No. 56,959

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)